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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Reform of the Interstate Access Charge Rules	)	RM-8356
	)	

COMMENTS OF SPRINT COMMUNICATIONS CO.

Sprint Communications Co. urges the Commission to deny forthwith the above-captioned Petition For Rulemaking filed by USTA. In essence, USTA seeks a substantial deregulation of the LECs' interstate access services well before ubiquitous competitive alternatives to the LECs are in fact available. USTA's petition requests unrealistic relief and is no substitute for the meaningful debate about access reform that virtually all segments of the industry agree should take place.

Sprint has long supported a comprehensive review of access and separations rules. In view of changes in technology and the possible advent of local competition, it is necessary to assure that those rules assign costs to cost-causers wherever possible in order to allow the LECs' prices to convey the proper economic signals. If, as a result, subsidies are necessary to achieve universal service objectives, they should be targeted only to those in genuine need and recovered through appropriate mechanisms that are fair to all segments of the industry. At the same time, the Commission must assure that its regulatory framework will protect ratepayers in the event that competition proves insufficient to effectively check the market power of the

incumbent LECs. The USTA petition sidesteps these objectives in important respects: USTA would delay the institution of any separations reform until final rules in response to its petition have been adopted (Petition, n. 1 at 1) and would leave existing universal service subsidy programs relatively untouched -- merely expanding the existing cost recovery base to additional market participants (id. at 40-41). USTA would short-circuit an orderly inquiry into these issues (n. 3 at 2) with its grossly premature attempt to deregulate significant portions of the LECs' business.

Sprint will not address each and every aspect of USTA's proposal. Instead, the deficiencies in USTA's petition can be amply demonstrated from consideration of two of its objectives: eliminating the rate structure prescriptions that are embodied in the current switched access rules, and deregulating the LECs' pricing in so-called transitional market areas and competitive market areas.

USTA would vitiate the existing Part 69 rules for switched access that specify the rate elements to be charged, and in their place would allow the LECs to fashion their own rate elements and structures (except for certain "public policy" rate elements) through the tariff filing process (Petition at 21-23). USTA claims that the existing regulatory framework, which forces LECs to seek rule changes or waivers to add new services or depart from the prescribed structure, results in the delay of the offering of new services, to the detriment of both the LECs and the public, and to the advantage of competitors that are under no similar restraints (id. at 9-10). USTA also observes (at 23) that LECs have had freedom to establish the special access rate

structure from the outset of the access charge plan and that there are no strictures imposed on IXCs or CAPs comparable to those the LECs face for switched access.

Sprint concedes that the existing rules may not adequately reflect the technological advances of recent years and new technologies that may be introduced in the foreseeable future -- indeed that is one reason for initiating a comprehensive inquiry into the rules. Sprint also appreciates the frustration the LECs face in cases where petitions for waiver remain pending for long periods of time. However, USTA fails to demonstrate that these are serious problems or that the proper cure is the large-scale elimination of access rate structure requirements.

First, USTA fails to cite any instance of a new technology that LECs were precluded from bringing to market as a result of Part 69. Nor has USTA demonstrated a pattern of undue delay by the Commission in acting on waiver requests. In fact, USTA cites (in Attachment 1) only five specific examples of Part 69 waiver requests. Those requests resulted in one denial (after 14 months) and four grants (two after four months, one after five months, and one after ten months); the average processing time for these petitions was 7.4 months. In view of the need to solicit public comment, and since waiver requests may raise policy issues that deserve thoughtful consideration by the Commission or require submission of supplemental factual support by the petitioning carrier, Sprint submits that the Commission's track record as portrayed in USTA's petition simply does not warrant the wholesale elimination of the waiver process that USTA is seeking.

The fact that the Commission has declined to prescribe detailed rate structures for special access service or for services offered by CAPs and IXCs is no basis for according similar treatment to switched access services. USTA's argument to the contrary overlooks both the market power of the LECs and important differences between the switched and special access markets. While the Commission has taken steps to encourage competition, the LECs still have a virtual monopoly on interstate access services. During the first six months of 1993, only .45 percent of Sprint's payments for local access went to alternative access vendors, and much the same was true for AT&T and MCI in 1992: only .14% and .6%, respectively, of their access payments went to the CAPs.[1] Giving the LECs the freedom they seek to establish rate elements for switched access services could have a serious impact on competition in the interexchange market as well as on the development of competition in the local market. There is simply an insufficient presence of competition in the access market at the present time to serve as an effective check on the rate structure for switched access services. Were that not the case, the Commission could have dispensed with the arduous 2-1/2

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[1] See, Testimony of Robert Allen, AT&T Chairman, before the Committee on Commerce, Science, and Transportation, September 8, 1993; and Letter from Gerald J. Kovach, MCI Senior Vice President for External Affairs, to the Honorable Daniel K. Inouye, Chairman, Subcommittee on Communications, Committee on Commerce, Science, and Transportation, United States Senate, September 17, 1993.

year (and on-going) process of formulating a new local transport structure.[2]

The other central feature of the USTA plan that highlights its unrealistic nature is its market classification proposal. USTA would assign wire centers to three categories: initial market areas (IMAs), transitional market areas (TMAs), and competitive market areas (CMAs), with differing regulatory requirements applicable to each. Each density zone, or each study area for carriers that have not implemented density zone pricing, would constitute an IMA. In each IMA, the LECs could reassign one or more wire centers to a TMA where there is "the presence of substitutable services from another source" which USTA defines to include "a competitive access provider, cable company, cellular carrier, interexchange carrier, private carrier, or microwave carrier within the geographic area served by the wire center" (Petition at 25). The presence of expanded interconnection in a wire center would automatically show the presence of substitutable services, but is not necessary to demonstrate such presence (id., n. 37 and accompanying text). If there is just one "substitutable service" present within the area

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[2]The fact that special access services are not subject to similar Part 69 restraints is irrelevant. Demand for special access is far smaller and less concentrated than switched access demand. Thus, a switched access rate structure that for whatever reason -- the LECs' own strategic objectives, or the monopsonistic power of AT&T, who accounts for roughly 60 cents of every switched access dollar -- departs from sound economic and policy principles can wreak much more havoc in the interexchange marketplace than is the case with pricing distortions for special access.

served by a wire center, all services originating or terminating within these wire centers would be included in the TMA (id. at 25). The TMAs would have more liberal price cap bands than IMAs (id. at 31) and LECs would be free to engage in individual customer contract pricing, outside of price caps, in response to customers' requests for proposals (id. at 32), without the need to file cost support (id. at Attach. 6).

A wire center could be designated a CMA where two criteria are met: (1) there is an alternative source of supply for customers that account for at least 25% of the demand for the LEC's interstate access services, or 20% of total market demand for interstate access services; and (2) customers that account for 25% of the LEC's access demand, or a single customer that accounts for 15% of such demand, actively seek to reduce their access costs through a solicitation of bids, use of a private network, or construction of their own facilities (id. at 26). Each such wire center would be a separate CMA, and rates in CMAs would be outside of access, price cap and cost support rules, with market forces as the only control; unfettered single customer contract pricing would also be permitted (id. at 32).

While it is unclear from USTA's petition precisely what showing would be required for classification of a wire center into a TMA or a CMA, it may well be that the bare presence of a non-LEC microwave tower or satellite earth station, or an IXC POP or a strand of non-LEC fiber optic cable running below the streets of a wire center serving area, would suffice for reclassification of a wire center into a TMA; and the theoretical ability of any of these forms of transmission to handle one-

fourth of the LECs' access demand,[3] coupled with a preliminary step by an IXC to explore an alternate source of supply, would trigger deregulation of all access services within the wire center serving area. What is clear from the definitions of TMA and CMA is that there would have to be no actual loss of business to a local service competitor before the LECs could engage in contract pricing (in TMAs) or in completely deregulated pricing (in CMAs). It is utterly unreasonable of USTA to believe that the Commission would consider deregulation of the LECs' access pricing before the LECs face competitive alternatives that are ubiquitous, comparable and available in fact as well as in theory.

The short and dispositive answer to USTA's petition is that competition in the local exchange simply has not progressed to the point that the radical deregulation USTA seeks can be seriously entertained. Less than two weeks ago, the Commission, in adopting rules to liberalize depreciation prescription procedures for LECs, declined to award LECs the greater depreciation flexibility that they were seeking on the ground that

> the competitiveness of the LECs' markets overall [is] not sufficiently robust to warrant any additional flexibility .... Although the LECs face emerging competition in certain services, competitive pressures are not such that we can rely on them to

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[3]It is also unclear how this 25% of demand would be measured as between, for example, interoffice transport, switching, and local loop.

> provide an adequate check on the LECs' depreciation choices.[4]

If competition is not sufficiently robust to deregulate just one element of LEC revenue requirements -- depreciation expense -- it hardly justifies the wholesale price deregulation USTA is seeking.

There can be no question that if and as meaningful competition develops in the local market, changes in the regulatory regime for local exchange carriers should be made. There is much that the Commission has done and can do, even in the advance of the emergence of such competition, to align LEC rates closer to costs and thereby promote a more economically sound and fair competitive environment. In addition to the relaxation of depreciation prescriptions in the order cited above, the Commission has (1) reallocated general support facilities expense to eliminate excessive allocations to special access and switched transport;[5] (2) adopted a new interim structure for switched local transport;[6] and (3) permitted a limited form of density zone pricing to replace previously-mandated geographic averaging

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[4] See Simplification of the Depreciation Prescription Process, CC Docket No. 92-296 (FCC 93-452, released October 20, 1993) at para. 28. See also, paras. 42-45.

[5] Amendment of the Part 69 Allocation of General Support Facility Costs, 8 FCC Rcd 3697 (1993).

[6] Transport Rate Structure and Pricing, 7 FCC Rcd 7006 (1992), on reconsideration, 8 FCC Rcd 5370 (1993), on further reconsideration, 8 FCC Rcd 6233 (1993).

of access prices both for special access[7] and more recently for switched transport.[8] Sprint believes the Commission should implement a more comprehensive form of density zone pricing regardless of the presence or absence of local competition,[9] and hopes the Commission will see fit to do so promptly. Such pricing would eliminate the existing access price umbrella that sends false entry signals in high-density, low-cost markets, would result in more cost-based access prices, and would obviate the need for the extreme pricing deregulation that USTA seeks. In addition, the Commission will shortly be commencing a proceeding to review its price cap rules for the local exchange industry. While these individual actions do not substitute for a comprehensive inquiry into access and separations rules that Sprint believes is warranted, they demonstrate the Commission's responsiveness to the need for adapting the LECs' regulatory regime to evolving conditions.

Sprint would not anticipate that the more comprehensive examination of access and separations rules that it advocates would necessarily result in radical changes in the basic method of regulation of the local exchange industry. Costs should be reassigned to better reflect cost causation, and subsidy programs

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[7] Expanded Interconnection With Local Telephone Company Facilities, 7 FCC Rcd 7369 (1992).

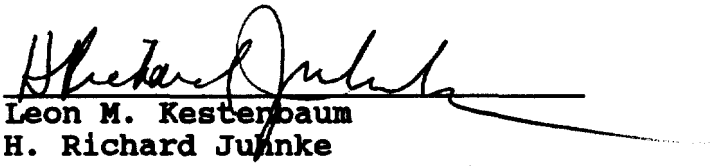
[8] Expanded Interconnection With Local Telephone Company Facilities (FCC 93-379, September 2, 1993).

[9] See Sprint's October 18, 1993 and December 18, 1992 Petitions For Reconsideration in CC Docket No. 91-141.

need to be retargeted more narrowly. However, until actual competition in the local market develops to an immensely greater degree than it has thus far, there is no warrant for the kinds of deregulatory actions USTA seeks through its petition. As a result, the less time the Commission spends on USTA's petition, and the fewer resources it diverts to the petition from more meaningful regulatory reform activities, the better. The Commission should summarily deny USTA petition.

Respectfully submitted,

SPRINT COMMUNICATIONS CO.



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November 1, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments" of Sprint Communications Co. were sent via first-class mail, postage prepaid, on this the 1st day of November, 1993, to the below-listed parties:

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